HON. RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

M.K.L., by and through her parents, J.K. and R.L.; and J.K. and R.L., individually and on their own behalf,

Plaintiffs,

v.

SEATTLE SCHOOL DISTRICT NO. 1, KING COUNTY, STATE OF WASHINGTON, also known as SEATTLE PUBLIC SCHOOLS; NATHAN HALE HIGH SCHOOL; and DR. WILLIAM JACKSON, in his individual capacity, and on behalf of his marital community,

Defendants.

Case No. 2:25-cv-2334-RSM

PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

ORAL ARGUMENT REQUESTED

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PRELIMINARY STATEMENT

Plaintiff M.K.L., a Jewish student and granddaughter of Holocaust survivors, attended Nathan Hale High School ("Nathan Hale"), her local public school, during the 2023–2024 school year but was forced to leave as the result of a relentless and escalating campaign of discriminatory harassment. Students hurled antisemitic slurs at her in hallways, told her they "hated Jews," expressed regret that "Hitler didn't finish the job," drew swastikas where they knew she would see them, and threatened her with physical violence. The harassment escalated from verbal abuse to physical assault when, in the days leading up to a "Free Palestine" walkout, a student screamed at M.K.L., accused her of being Islamophobic, and spat on her. Other students threatened to "jump" M.K.L. if she wore clothing associated with Judaism. These threats culminated in a May 2024 incident where a teacher had to barricade M.K.L. inside a classroom to protect her from a mob of students pounding on the door threatening to attack M.K.L. because of her Jewish identity.

Antisemitism is so pervasive throughout schools in Defendant Seattle School District No. 1 ("District") that the Jewish Community Relations Council ("JCRC") formally warned the District of an "extreme rise in antisemitism," and Plaintiffs are aware of at least 12 additional antisemitic incidents involving other Jewish students in the District. M.K.L. and her parents (together, "Plaintiffs") reported the harassment M.K.L. experienced to Nathan Hale's principal, Defendant Jackson (together with the District, "Defendants"), and other school officials on at least 15 separate occasions. Jackson acknowledged the "rising antisemitism in the [Nathan Hale] community" and that M.K.L. was experiencing ongoing harassment, bullying, and intimidation; yet, he did not "commit to take"—let alone, actually take—"any measures to investigate or address th[at] antisemitism," discipline the perpetrators, or protect M.K.L. from further abuse. Because Defendants failed to implement any reasonable plan to protect M.K.L., she was left with no choice but to transfer to a school outside the District.

Plaintiffs brought this action to enforce the Defendants' legal obligations and to vindicate M.K.L.'s right to a nondiscriminatory education. Defendants now move to dismiss

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Plaintiffs' claims, but their arguments either lack legal support or read less like a Rule 12(b)(6) challenge and more like a trial brief, which asks the Court to weigh the reasonableness of the District's response and resolve other factual disputes that cannot be decided at the pleading stage.

First, Plaintiffs have more than stated their federal, state constitutional, and state Equal Education Opportunity Law ("EEOL") claims by plausibly alleging that Defendants acted with "deliberate indifference" to the discriminatory harassment M.K.L. faced. Plaintiffs' detailed and specific allegations far exceed the low bar necessary to plead these claims.

Second, Defendants assert that Plaintiffs lack standing to seek structural changes to make the District protect Jewish students because M.K.L. is no longer enrolled in the District. But well-pleaded allegations that M.K.L. would return to the District provided it remedies the antisemitic conditions that forced her to withdraw are sufficient to establish standing for prospective relief.

Third, Defendants contend that Plaintiffs' Washington Law Against Discrimination ("WLAD") claim fails because the Complaint's allegations that Defendants responded differently when addressing anti-Muslim discrimination "do not provide sufficient information" to make a meaningful comparison. But Plaintiffs have alleged a fact-specific contrast between Defendants' anemic and ineffective response to sustained antisemitic harassment against M.K.L., and their swift and comprehensive response to an incident directed at Muslim students.

Fourth, relying on an abrogated standard, Defendants argue that all tort claims brought by J.K. and R.L., as well as those against Jackson, must be dismissed for failing to "strictly comply" with statutory pre-suit notice requirements. Plaintiffs fully satisfied all pre-suit notice requirements for all claims against all Defendants. Setting formalistic red herrings aside, it is axiomatic that school districts owe an enhanced and solemn duty of care to their students, and Plaintiffs have alleged the details of how Defendants breached that duty to M.K.L.

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BACKGROUND

A. The District Takes No Meaningful Action as Students Begin Harassing M.K.L. Because She Is Jewish.

Shortly after M.K.L. began her freshman year at Nathan Hale in September 2023, she became a target of antisemitic slurs and expressions of regret that "Hitler had not finished the job." (Compl. ¶¶ 18–20.) Students vandalized the school with Swastikas and antisemitic graffiti. (*Id.* ¶ 20.) In what would become a recurring pattern, M.K.L. reported the harassment to school staff but Defendants failed to: (i) investigate the conduct, (ii) identify—let alone, discipline—the perpetrators, or (iii) institute any measures designed to prevent future harassment. (*Id.*)

In one incident shortly before a "Free Palestine" walkout, a student spat on M.K.L. and threatened to "jump" her "if she wore any clothing associated with Judaism." (*Id.* ¶ 22.) J.K. emailed Jackson twice regarding concerns about her daughter's safety on the day of the walkout, but he failed to address those concerns. (*Id.* ¶ 23.) M.K.L. soon found another Swastika—this time on her own desk. (*Id.* ¶ 24.) Despite Jackson acknowledging that he was aware of the ongoing harassment, Defendants, again, failed to do anything to stop it. (*Id.* ¶¶ 24–27.)

M.K.L. was not the only victim of antisemitic harassment in District schools. (*See* Compl. ¶¶ 54–65 (detailing 12 instances from Fall 2022 through March 2025).) On November 13, 2023, the JCRC sent a letter to the District warning that Jewish students were "experiencing an extreme rise in antisemitism" and requesting that the District "provide antisemitism training to all [District] staff." (*Id.* ¶ 28.) Defendants declined to provide "district-wide antisemitism training" "or investigate the antisemitic harassment of Jewish students." (*Id.* ¶ 28.)

B. The District's Inaction Allows the Harassment to Escalate.

Absent any meaningful intervention from Defendants, students felt free to continue harassing M.K.L. When, during a class, M.K.L. shared details about family members who were murdered in the Holocaust, students "laughed at the Nazi atrocities" and again expressed regret that "Hitler didn't finish" the job. (Compl. ¶ 32.) Swastikas continued to proliferate around Nathan Hale. (*Id.* ¶¶ 33–34.) M.K.L. reported these incidents to Jackson and other school staff. (*Id.*)

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Despite promising to investigate these incidents, Defendants took no visible action to even identify the perpetrators. (*Id.*) M.K.L. was simultaneously harassed via social media, including by the official account of the Nathan Hale Muslim Student Association. (*Id.* ¶ 35.) Beyond meeting with some concerned parents, Defendants did not take action. (*Id.* ¶¶ 35–37.)

Defendants' failure to meaningfully intervene stands in stark contrast to Defendants' swift response to other incidents of religious discrimination at Nathan Hale. For example, in September 2023, when a Muslim student reported that another student had made an Islamophobic joke, Defendants promptly delivered "tutorials and trainings for students" and "discussed the incident in a student assembly and in an email to the school community." (*Id.* ¶ 80.) Jackson also directed teachers to address the incident during homeroom and suspended at least one of the students involved. (*Id.*)

C. Defendants' Refusal to Protect M.K.L. from Physical Harm Forces Her to Transfer Schools.

After months of unchecked antisemitism, on May 22, 2024, approximately 20 students gathered outside M.K.L.'s classroom. (Compl. ¶ 39.) With the teacher and M.K.L. locked inside, the students began pounding on the door, shouting antisemitic slurs, and demanding that M.K.L. "come out and 'get what she deserved.'" (*Id.*) School security eventually escorted M.K.L. to safety. (*Id.* ¶ 41.) Notwithstanding District policy requiring staff to "immediately contact law enforcement" when "there is potential for clear and immediate physical harm" to a student, law enforcement was not called at any point during or after this incident. (*Id.* ¶ 42.) When M.K.L. returned to school the next day, security escorted her to her first class, but no others. (*Id.* ¶ 43.) Instead, an assistant principal advised M.K.L. to "stop having lunch in public" and to "stick close to teachers between periods for protection." (*Id.*)

In the face of Defendants' repeated inaction, M.K.L.'s parents were left with no option but to remove M.K.L. from Nathan Hale. In order for her to return to any school in the District, the District would need to create a space where Jewish students are safe. (*Id.* ¶ 52.)

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On April 3, 2025, Plaintiffs submitted to the District its Standard Tort Claim Form with an addendum attached ("Claim Form") notifying the District of tort claims Plaintiffs intended to bring (Dkt. # 22 at 52–61), and on November 20, 2025, Plaintiffs brought this action.

ARGUMENT

In ruling on Defendants' Motion to Dismiss, the Court must accept all facts alleged in the Complaint as true, and make all inferences in the light most favorable to Plaintiffs. *Barker* v. *Riverside Cnty. Office of Educ.*, 584 F.3d 821, 824 (9th Cir. 2009). A complaint survives dismissal where it contains "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft* v. *Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). Defendants' Motion should be denied because it disputes Plaintiffs' factual allegations and invites the Court to resolve contested facts and competing inferences—matters that cannot be decided at the pleading stage.[1]

I. PLAINTIFFS HAVE STATED A CLAIM UNDER TITLE VI AGAINST THE DISTRICT (COUNT I).

Title VI of the Civil Rights Act of 1964 provides that no person:

> shall, on the ground of race, color, or national origin, … be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000d.[2] Under Title VI, a federal fund recipient's deliberate indifference to discriminatory harassment by third parties subjects it to liability. *L.T.* v. *Eleanor Murray Fallon Middle Sch.*, 2024 WL 3678014, at *5 (N.D. Cal. Aug. 5, 2024) (citing *Monteiro* v. *Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1034 (9th Cir. 1998)). To state a Title VI claim, like this one, rooted in allegations of peer-on-peer discrimination, a complaint must plausibly plead that the educational provider had "actual knowledge of," and was "deliberately indifferent to," discriminatory

---

[1] Plaintiffs acknowledge that the District is the proper defendant for claims styled in the Complaint as against both Nathan Hale and the District.

[2] Courts have long recognized that "antisemitism can amount to racial discrimination, and thus form the basis for a Title VI claim." *Nahavandi* v. *Bd. of Trustees of Cal. State Univ.*, 2024 WL 4403886, at *3 (C.D. Cal. Sept. 5, 2024); *see also T.E.* v. *Pine Bush Cent. Sch. Dist.*, 58 F. Supp. 3d 332, 355 & n.11 (S.D.N.Y. 2014) (sustaining "Title VI [claim] based on anti-Semitic discrimination").

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harassment sufficiently severe that it effectively "deprived the victim of access to the educational benefits or opportunities provided by" the district. *T.L. ex rel. Lowry* v. *Sherwood Charter Sch.*, 68 F. Supp. 3d 1295, 1308 (D. Or. 2014), *aff'd* 691 F. App'x 310 (9th Cir. 2017).[3]

Here, the Complaint is replete with specific allegations of the District's failures to respond reasonably to Nathan Hale students' antisemitic harassment of M.K.L. Despite Defendants' contentions (*see* Mot. at 28–29), Title VI does not require Plaintiffs to plead that a school district affirmatively chose to do nothing at all in response to this discrimination; it requires only plausible allegations that the District's response was "'clearly unreasonable in light of the known circumstances,'" *Jones* v. *Kern High Sch. Dist.*, 2008 WL 3850802, at *17 (E.D. Cal. Aug. 14, 2008) (citation omitted). Plaintiffs have done exactly that. Whether Defendants' chosen "approach" was reasonable is a factual question that cannot be resolved on a motion to dismiss.

The May 22 incident alone plausibly establishes deliberate indifference. The Complaint alleges that M.K.L. was locked inside a classroom to shield her from approximately twenty students threatening to assault her. (Compl. ¶¶ 38–39.) Rather than address the hostile environment, the District advised M.K.L. to avoid eating lunch in public and remain near teachers—restrictions that limited her access to ordinary educational benefits. (*Id.* ¶ 43.) These unreasonable measures shifted the burden of safety onto the victim and tacitly ratified the harassment.

A. The District Does Not Dispute the Adequacy of Plaintiffs' Allegations Concerning Most Elements of Their Title VI Claim Against the District.

The Complaint contains numerous detailed allegations of harassment due to M.K.L.'s Jewish identity, ranging from a constant barrage of antisemitic slurs to ongoing physical threats. (*E.g.,* Compl. ¶¶ 20–22, 32–35, 38–41, 46–47.) The District does not dispute that these allegations properly plead that M.K.L. was subjected to pervasive antisemitic discrimination.

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[3] *Lowry* concerned discrimination "on the basis of sex" under Title IX. But, as Defendants concede, "Title VI and Title IX are 'parallel' and 'operate in the same manner.'" (Dkt. #21 ("Motion" or "Mot.") at 28 n.7 (quoting *Gebser* v. *Lago Vista Sch. Dist.*, 524 U.S. 274, 286 (1998)).)

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Ultimately, the discrimination here was "so severe, pervasive, and objectively offensive" that it forced M.K.L. to transfer schools, and thereby "denie[d]" her "the equal access to education that" the Civil Rights Act "is designed to protect." *Davis* v. *Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 652 (1999).

Further, the District does not dispute that the Complaint has adequately pleaded that the District had "actual knowledge" of the harassment.[4] Nor could it. The Complaint chronicles at least 15 separate instances where Plaintiffs reported antisemitic harassment to Jackson or other administrators, two instances where teachers personally witnessed such harassment, and an express acknowledgement by Jackson that he "knew of" the harassment. (*See* Compl. ¶¶ 20, 23–26, 31–41, 45.) Such direct "report[s]" of "harassment to school administrators" are "sufficient to provide a basis for a finding of actual knowledge on the part of the District." *Pine Bush*, 58 F. Supp. 3d at 358–59; *see also, e.g.*, *G.D.S. ex rel. Slade* v. *Northport-E. Union Free Sch. Dist.*, 915 F. Supp. 2d 268, 278 (E.D.N.Y. 2012) (allegations that student and parents met with administrators to discuss antisemitic harassment sufficient to plead actual knowledge); *Peck* v. *W. Aurora Sch. Dist. 129*, 2006 WL 2579678, at *3 (N.D. Ill. Aug. 30, 2006) (same for allegation that principal and dean "knew about" harassment).

B. Plaintiffs Have Adequately Pleaded That the District Was Deliberately Indifferent to Antisemitic Harassment

1. *Plaintiffs' Allegations of the District's Inadequate Response Plead Deliberate Indifference.*

Plaintiffs have alleged a catalogue of inadequate responses by the District, including its failure to adequately investigate specific reports of antisemitic conduct and physical threats to M.K.L.; its refusal to prevent students from using school-sponsored platforms to harass M.K.L.; its decision not to impose discipline on any perpetrators of the discrimination; its disregard of policies

[4] Twice Defendants advance arguments concerning deliberate indifference that "assum[e] *arguendo*" Plaintiffs' reports of the harassment to school officials show *actual knowledge* (or "actual notice") by the District. (*See* Mot. at 28.) But nowhere do Defendants contend that any other assumption about the District's knowledge is plausible.

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designed to prevent discrimination; its insufficient training of staff members to respond appropriately to the harassment M.K.L. faced, and its lack of effective action to remedy the hostile environment that plagued M.K.L. at Nathan Hale. (*See* Compl. ¶¶ 20–46, 78–80.) Allegations similar to the foregoing—often far less robust than those here—have consistently been determined by courts in this Circuit (and elsewhere) to adequately plead deliberate indifference. *See, e.g.*, *Murrell* v. *Sch. Dist. No. 1, Denver*, 186 F.3d 1238, 1248 (10th Cir. 1999) (administrator's "refusal to investigate" claims of discriminatory harassment "amounts to deliberate indifference"); *Toni* v. *Washoe Cnty. Sch. Dist.*, 2024 WL 643044, at *7 (D. Nev. Feb. 15, 2024) (allegations that baseball coach witnessed and failed to stop racial harassment of student was sufficient to plead Title VI claim against school district); *L.T.*, 2024 WL 3678014, at *5–6 (sustaining Title VI deliberate indifference claim where the district's "decision makers were aware of numerous incidents" of racial harassment of student but "failed to take direct measures to combat" them).

In the oft-cited case, *Monteiro* v. *Tempe High School District*, the Ninth Circuit recognized that a Title VI claim lies where a school district permits student-on-student discrimination to create "a hostile educational environment"; the court observed that "[a] school where" racially motivated "verbal harassment … occurs unchecked is utterly failing in its mandate to provide a nondiscriminatory educational environment." 158 F.3d at 1033–35.[5] There, a ninth grader was allegedly the target of "noxious racial epithet[s]" made orally and "written on the walls" of the school. *Id*. at 1034. The parents' complaints to the school "were rebuffed" and "nothing was ever done about the problem." *Id*. The Ninth Circuit concluded that these allegations of peer-on-peer harassment were sufficient to state a hostile environment claim under Title VI. *Id*. at 1034–35.

Plaintiffs here have pleaded a similar "pattern of egregious public [discriminatory] harassment," *id.*, at Nathan Hale, including antisemitic slurs and objectively offensive graffiti. (*See*

[5] As courts in this Circuit have observed, "[a]lthough some aspects of *Monteiro* have been abrogated" by subsequent Supreme Court rulings, *Monteiro*'s "recognition of peer-harassment claims remains good law." *A.J.* v. *N. Clackamas Sch. Dist.*, 2023 WL 2812363, at *6 (D. Or. Apr. 6, 2023) (collecting cases).

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Compl. ¶¶ 19–20, 24, 31–34.) The allegations here go even further, as they also include multiple serious threats of physical harm. (*See id.* ¶¶ 22, 39–41.) Moreover, as in *Monteiro*, Plaintiffs here allege that the school "ignore[d] or reject[ed] [the student's] complaints," 158 F.3d at 1034. (*See id.* ¶¶ 20, 23–24, 27, 32–36, 42.) To the extent the District responded at all to M.K.L.'s harassment, its response was so grossly insufficient that the District "can be said to have been deliberately indifferent to the need." *Monteiro*, 158 F.3d at 1034.

2. *Defendants Are Wrong that the* de minimis *Responsive Action Taken by the District Defeats a Title VI Claim.*

Defendants ignore Plaintiffs' numerous allegations of deliberate indifference and argue only that liability does not attach unless "there was an official decision to take no action whatsoever in response to Plaintiffs' reports." (Mot. at 29.) Under this theory, the District's anemic response—Jackson's nondescript email to the community and the fleeting involvement of some District employees in helping protect M.K.L. from a mob attack—immunizes the District from Title VI liability. (*See* Compl. ¶ 29.)

Thankfully for students across the country, the District's position is not the law. *See Vance* v. *Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 260 (6th Cir. 2000) (rejecting contention that "as long as a school district does something in response to harassment, it has satisfied the standard"). In fact, the very case Defendants cite as providing the "applicable standard" (Mot. at 28) recognizes that Title VI liability attaches where a fund recipient "respon[ds]" affirmatively "to the harassment" but in a manner that "is clearly unreasonable in light of the known circumstances," *Davis*, 526 U.S. at 648. As a result, arguments by Title VI defendants that a school responded adequately present questions of fact "more appropriate [for] a later stage in the proceedings." *L.T.*, 2024 WL 3678014, at *6 (sustaining Title VI claim notwithstanding defendant's claim that "it addressed the behavior immediately by investigating the incidents and implementing its progressive discipline policies"); *see also Gerwaski* v. *Nevada*, 2025 WL 1311037, at *11 (D. Nev. May 5, 2025) (at motion to dismiss, rejecting "argument that it responded adequately to [plaintiff's] complaints" of discrimination).

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Defendants' motion similarly attempts to shift the focus from the adequacy of the District's response to the supposed shortcomings of Plaintiffs' reports. At various points in their motion, Defendants attempt to excuse their failure to take reasonable efforts to intercede on behalf of M.K.L. by asserting that Plaintiffs never "disclosed the names of the students who harassed M.K.L." in their many reports to Defendants about these incidents. (Mot. at 33; *see also id.* at 13, 14, 15, 22.) This argument misses the mark because a school may not "ignore the reported [] harassment just because the harasser is unknown." *S.E.S. as next friend of J.M.S.* v. *Galena Unified Sch. Dist. No. 499*, 446 F. Supp. 3d 743, 798 n.46 (D. Kan. 2020) (citing *Davis*, 526 U.S. at 644–45). Furthermore, the Complaint alleges that "Jackson told J.K. that Nathan Hale is equipped with security cameras, and [that] he agreed to review the security footage to identify [the students] who had been harassing and threatening M.K.L." (Compl. ¶ 26.) Jackson did not even take this cursory step to attempt to identify M.K.L.'s harassers, nor did he speak to Nathan Hale faculty who could have identified the students threatening M.K.L.

Rather than confront these failures, Defendants invoke their written policies as if their mere existence provides a safe harbor under Title VI. It does not. "Deliberate indifference turns on the school's actual response to the known acts of harassment," not "how effectively it followed its policies and procedures." *S.E.S.*, 446 F. Supp. 3d at 798 n.46; *see also Butters* v. *James Madison Univ.*, 145 F. Supp. 3d 610, 618 n.5 (W.D. Va. 2015) ("[W]hether [defendant's] administrators were 'deliberately indifferent' will not turn on whether they complied with their own policies.").

II. PLAINTIFFS HAVE STATED A § 1983 CLAIM AGAINST ALL DEFENDANTS (COUNTS II & III).[6]

The Equal Protection Clause of the Fourteenth Amendment provides that "[n]o state shall … deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST.

[6] Defendants suggest that the Court should dismiss Plaintiffs' request for punitive damages. (Mot. at 34.) But punitive damages are a remedy, not a claim that can be dismissed. *See Aesha* v. *State Farm Gen. Ins. Co.*, 2024 WL 5410447, at *8 (C.D. Cal. July 30, 2024) ("A Rule 12(b)(6) motion is used to dismiss ***claims***, not remedies." (emphasis in original)).

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amend. XIV, § 1. To state a Section 1983 Equal Protection claim, plaintiffs must plead that the defendants, "acting under color of state law, discriminated against them as members of an identifiable class and that the discrimination was intentional" or resulted from "deliberate indifference."[7] *Flores* v. *Morgan Hill Unified Sch. Dist.*, 324 F.3d 1130, 1134–35 (9th Cir. 2003). "In the specific context of a school administrator's failure to investigate or discipline harassment at school," the defendant "acts with deliberate indifference when he or she responds to known harassment in a manner that is clearly unreasonable." *Walsh* v. *Tehachapi Unified Sch. Dist.*, 827 F. Supp. 2d 1107, 1116 (E.D. Cal. 2011) (citing *Flores*, 324 F.3d at 1135).[8]

A. Plaintiffs Have Stated a Claim Under § 1983 Against the District.

1. *Plaintiffs Have Adequately Pleaded Deliberate Indifference by the District.*

Flores cites to *Davis*—a Title IX case—for its "deliberate indifference" standard, 324 F.3d at 1135, and courts in this Circuit commonly conduct the same deliberate indifference analysis for a Section 1983 Equal Protection claim as they do for Title VI and Title IX claims.[9] As discussed above, Plaintiffs have adequately pleaded that M.K.L. was discriminated against due to the District's deliberate indifference. (*See* Section I.B.)

2. *Plaintiffs Have Adequately Pleaded That, Under* Monell, *the Discrimination Resulted from the District's Actions.*

To state a Section 1983 Equal Protection claim against a municipal entity such as the District, a plaintiff must plead that the constitutional violation resulted from the "execution of [the entity's] policy or custom." *Monell* v. *Dep't of Social Servs. of City of N.Y.*, 436 U.S. 658, 694 (1978). Over time, courts have endorsed various ways a plaintiff may establish that the policy or

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[7] Defendants do not dispute that M.K.L. is a member of an identifiable class.

[8] Because "the federal and [Washington] state equal protection clauses are construed identically," *Tunstall* v. *Bergeson*, 141 Wn.2d 201, 225 n.20 (2000), the analyses for the state Equal Protection claim against Defendants are identical to those set forth in this section.

[9] *See, e.g.*, *Doe 1* v. *Manhattan Beach Unified Sch. Dist.*, 2021 WL 3883910, at *4, *6 (C.D. Cal. Aug. 31, 2021) (applying single deliberate indifference analysis to both claims); *Riboli* v. *Redmond Sch. Dist.*, 2022 WL 309227, at *3–5 (D. Or. Feb. 2, 2022) (same).

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custom was the "moving force" behind the constitutional violation. *Id*. Plaintiffs have pleaded at least three such theories here, but Defendants move to dismiss only two of them.

a. The District Has a Widespread Custom of Failing to Address Antisemitism

Beyond the two *Monell* theories challenged in the Motion, the Complaint also plausibly alleges that SPS maintains a widespread custom of inadequately addressing antisemitism and permitting antisemitic harassment to persist in the District. (Compl. ¶¶ 116–19.) In addition to the antisemitic harassment directed at M.K.L., the Complaint details at least 11 other antisemitic incidents in the District from Fall 2022 to Spring 2025. (*Id*. ¶¶ 54–65.) These allegations demonstrate that the antisemitic harassment M.K.L. faced was not a "single incident," *Saved Magazine* v. *Spokane Police Dep't*, 19 F.4th 1193, 1201 (9th Cir. 2021), but rather conduct of "sufficient duration, consistency, and frequency to constitute a widespread custom under *Monell*," *Tapia* v. *NaphCare Inc.*, 2025 WL 306387, at *7 (W.D. Wash. Jan. 27, 2025).

b. The Antisemitic Harassment Results from the District's Failure to Properly Train Its Employees.

A plaintiff states a Section 1983 claim by pleading that the municipality "had a training policy that amounts to deliberate indifference to the constitutional rights" of the victim(s) and the "constitutional injury would have been avoided had the [municipality] properly trained" its employees. *C.B.* v. *Moreno Valley Unified Sch. Dist.*, 544 F. Supp. 3d 973, 991 (C.D. Cal. 2021). Here, the Complaint alleges that, despite repeated District-wide reports of antisemitic slurs and graffiti, online harassment, and escalating threats of violence, the District consistently failed to investigate, discipline perpetrators, notify law enforcement, implement adequate safety measures, or otherwise respond to the incidents in a manner that could reasonably have prevented further injury. (*See* Compl. ¶¶ 27–28, 32–37, 42, 78.)

Defendants maintain Plaintiffs do not allege "how the District's responses to [antisemitic] incidents were deficient based on lapses in training." (Mot. at 25.) But alleging "'a pattern of tortious conduct' by [a municipality's] employees," is sufficient to plead that "inadequate

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training was the 'moving force' behind [the victim's] injuries." *Moreno Valley*, 544 F. Supp. 3d at 991 (quoting *Bd. of Cty. Comm'rs of Bryan Cty., Okl.* v. *Brown*, 520 U.S. 397, 407–08 (1997)). Here, Plaintiffs' allegations of persistent and systemic discriminatory harassment show that the District "continued [to] adhere[] to an approach that they kn[e]w or should [have] know[n] … failed to prevent tortious conduct by [its] employees." *Id.*

Defendants also contend that the Complaint does not allege "how *the District's Board* was 'put on notice that a new program [was] called for.'" (Mot. at 25 (emphasis and alteration in original).) This assertion ignores the allegation that the JCRC sent the District an express warning regarding a sharp rise in antisemitism and specifically requested that the District implement antisemitism training. (Compl. ¶ 28.) Letters from interested external observers "notifying [a municipality] of a 'disturbing pattern'" of constitutional violations readily support an inference that the municipality was "on notice" of the misconduct for purposes of *Monell* liability. *Jok* v. *City of Burlington, Vt.*, 2022 WL 444361, at *15 (D. Vt. Feb. 14, 2022) (letter from ACLU to police department); *see also Wilson* v. *City of Chanute*, 43 F. Supp. 2d 1202, 1214 (D. Kan. 1999) (letter from county sheriff to city police chief). In any event, District employees were repeatedly notified of an ongoing and escalating pattern of antisemitic incidents at Nathan Hale. (Compl. ¶¶ 20, 22–27, 32–37, 47, 78, 80.) Either these employees escalated the reports to the District's Board, which ignored them, or those employees did not escalate the reports to the District's Board, which itself reflects a fundamental failure in their training.

c. Jackson Is a Final Policymaker as to Student Supervision and Discipline.

A municipality can also be liable for a Section 1983 claim under *Monell* if one or more of the employees responsible for the constitutional violation functioned as a "final policy maker." *Lytle* v. *Carl*, 382 F.3d 978, 982 (9th Cir. 2004). Such authority need not be "explicit … under state law"; instead, courts will "look to the way a local government entity operates in practice." *Id.* at 982–83. To determine whether a principal is a final policymaker for a school district, courts examine whether "the official's decisions were subject to review by

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the *District's* authorized policymakers." *Id.* at 986 (emphasis in original). An official may even qualify as a final policymaker in just "a particular area or [on] a particular issue,'" *Barone* v. *City of Springfield, Ore.*, 902 F.3d 1091, 1107 (9th Cir. 2018), and Plaintiffs have alleged here that Jackson was a final policymaker for "respond[ing] to antisemitic harassment" and "ensur[ing] the safety of M.K.L. and other Jewish students" (Compl. ¶ 120.)

Defendants are wrong that "[n]othing in the authorizing statute allows a school board to delegate final policymaking authority to school principals for *Monell* purposes." (Mot. at 24.) A Washington statute provides that school principals possess "administrative authority and responsibility for the supervision, counseling and discipline" of students at their school, RCW 28A.400.100(4), thereby conferring on Jackson final authority in the specific areas of student supervision and discipline—precisely the areas in which he failed to protect M.K.L.

Further, *Monell* liability can attach where a municipality has, in practice, "delegated" a policy's "implementation to" the employee responsible for the constitutional violation. *L.K.M.* v. *Bethel Sch. Dist.*, 2021 WL 1531088, at *5 (W.D. Wash. Apr. 19, 2021). Defendants themselves concede that the governing policy "grants substantial discretion to school staff" (Mot. at 12), and that alone raises a question of fact as to whether Jackson "enjoyed unconstrained discretion, converting him into a final policymaker." *Bethel*, 2021 WL 1531088, at *5; *see also Holloman* v. *Harland*, 370 F.3d 1252, 1293 (11th Cir. 2004) (principal has "final policymaking authority" with respect to student discipline where district policy granted principal wide discretion in administering that discipline).

B. Plaintiffs Adequately Pleaded a § 1983 Claim Against Jackson

1. *Plaintiffs Have Adequately Pleaded Deliberate Indifference by Jackson.*

Flores' "deliberate indifference" standard also applies to individual defendants, and thus for the Section 1983 claim against Jackson to survive a motion to dismiss, Plaintiffs must adequately plead that Jackson responded to the harassment "in a manner that is … clearly unreasonable." *Flores*, 324 F.3d at 1135 (quotation omitted). Where peer-on-peer harassment has

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been alleged, allegations sufficient to plead deliberate indifference by a school official can include taking "no action to locate or discipline the harassing students." *Id.* Here, the Complaint alleges, among other things, that Jackson (i) acknowledged "rising antisemitism in the [Nathan Hale] community" but did not take "any measures to investigate or address th[at] antisemitism" (Compl. ¶ 29); (ii) "promised to investigate and address" reports of antisemitic comments made during a class but, again, did not take "any action in response to these reports" (*id.* ¶ 32); and (iii) "assured [J.K.] that there would be an investigation and schoolwide training on antisemitism" following the "recurring appearances of Swastikas across the school," but failed to follow through (*id.* ¶ 36). This pattern of consistent "failure[s] to do anything about the ongoing harassment supports an inference of deliberate indifference" with respect to Jackson. *Flores*, 324 F.3d at 1136.

Defendants do not engage with the standard *Flores* applies. Instead, they point to an out-of-circuit district court case as supposedly standing for the proposition that, for the Section 1983 claim against Jackson to survive, Plaintiffs must allege "Jackson acted differently in similar situations involving a comparator group." (Mot. at 19 (citing *Harrington* v. *City of Attleboro*, 172 F. Supp. 3d 337, 345–46 (D. Mass. 2016)).) This misstates the law. The Ninth Circuit is unequivocal that "[t]he existence of a comparator is not a prerequisite to stating a disparate treatment claim under the Fourteenth Amendment. *Ballou* v. *McElvain*, 29 F.4th 413, 426 (9th Cir. 2022). Although "comparator evidence in disparate treatment claims can … be used to support a finding of a discriminatory motive[,] [i]t is not a gatekeeping mechanism essential to plaintiffs' ability to prove that they have been denied equal protection of the laws." *Id.*

Regardless, Plaintiffs have exceeded *Flores*' pleading requirements and *also* alleged unequal treatment. Defendants concede that Plaintiffs alleged "an incident in which 'another Nathan Hale student made a joke that offended Muslim students,' resulting in that student's suspension." (Mot. at 19 (quoting Compl. ¶ 80).) Defendants try to brush this aside by labeling the allegation "cursory," (*id.*), but that self-serving characterization understates the allegation. Plaintiffs have alleged the date of the incident, as well as specifics of Defendants' response, including "preparing and presenting tutorials and trainings for students"; Jackson's "discuss[ion]

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[of] the incident in a student assembly and in an email to the school community"; and his request to teachers that they "address it during the daily homeroom period." (Compl. ¶ 80.) When it serves them, Defendants are quick to point out that Plaintiffs do not have access to student disciplinary information as a result of "student privacy laws" (Mot. at 29), but Defendants ignore the same informational asymmetry when they complain that Plaintiffs' allegation concerning the discipline of another student "includes no details." (*Id.* at 20.)

2. *Plaintiffs Have Adequately Pleaded That Jackson Is Not Entitled to Qualified Immunity Because the Constitutional Rights He Violated Were Clearly Established at the Time.*

Defendants also assert that Jackson enjoys qualified immunity from Section 1983 liability. (Mot. at 18.) But "[t]o be entitled to qualified immunity at the motion to dismiss stage, [a municipal employee] must show that the allegations in the complaint do not make out a violation of a constitutional right or that any such right was not clearly established at the time of the alleged misconduct." *Hampton* v. *California*, 83 F.4th 754, 765 (9th Cir. 2023) (quotation omitted).

As set forth above (*see, supra*, Section II.B.1), Jackson's deliberate indifference violated Plaintiffs' right to Equal Protection under the Fourteenth Amendment. Further, over 20 years prior to the alleged conduct, the Ninth Circuit had already determined it was "clearly established" that students had a right to be free from "discriminat[ion] in the enforcement of school policies that required investigation and remedy of student harassment." *Flores*, 324 F.3d at 1138. Because "[a] student's right not to face racial discrimination in public education is clearly-established," *Doe* v. *L.A. Unified Sch. Dist.*, 2017 WL 797152, at *19 (C.D. Cal. Feb. 27, 2017), courts consistently sustain Section 1983 claims against school officials alleged to have acted unconstitutionally in the face of antisemitic peer-on-peer harassment, notwithstanding assertions of qualified-immunity. *See, e.g.*, *Shively* v. *Green Local Sch. Dist. Bd. of Educ.*, 579 Fed. App'x 348, 357–58 (6th Cir. 2014); *Pine Bush*, 58 F. Supp. 3d at 371.

Defendants do not argue otherwise. Instead, they improperly try to preclude Plaintiffs from responding to whatever argument they may eventually muster by purporting to preserve "argument on [this issue] pending Plaintiffs' response." (Mot. at 18 n.3.) But "qualified

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immunity is an affirmative defense and … the burden of pleading it rests with the defendant." *Crawford-El* v. *Britton*, 523 U.S. 574, 587 (1998) (quotation omitted).

III. PLAINTIFFS HAVE STANDING FOR INJUNCTIVE RELIEF.

Defendants contend that Plaintiffs lack standing to seek injunctive relief because "M.K.L. transferred out of the District and alleges no specific plan to return." (Mot. at 26.) But the Complaint specifically alleges that "M.K.L. would return to [the District] if Defendants were compelled … to guarantee [her] a safe environment." (Compl. ¶ 88(b).) Defendants ask the Court to ignore this allegation as "conjecture" (Mot. at 26), but unsupported aspersions on the credibility of a well-pleaded allegation are not enough on a motion to dismiss. Allegations that a student has an "intent to return" to a school district 'conditioned upon" certain changes taking effect are sufficient to "establish standing to seek injunctive relief." *Molski* v. *Price*, 224 F.R.D. 479, 483 (C.D. Cal. 2004). For example, in *J.V.* v. *Pomona Unified School District*, the court found that the plaintiff's allegations that she "would like to return her son to public school as soon as possible" subject to "changes [in] how [the district] trains, supervises, and interacts with students with developmental disabilities" were sufficient to establish standing to seek injunctive relief. 2016 WL 11746873, at *4–5 (C.D. Cal. Oct. 27, 2016). Plaintiffs' allegations here likewise satisfy the pleading requirements for standing to seek injunctive relief. *See Freedom from Religion Found. Inc* v. *New Kensington Arnold Sch. Dist.*, 832 F.3d 469, 481 (3d Cir. 2016) ("'Principles of standing do not require a plaintiff to remain in a hostile environment to enforce her constitutional rights.'" (citation omitted)).

Defendants hang their hat on *Bird* v. *Lewis & Clark College*, which they contend requires allegations of "concrete plans to re-enroll." (Mot. at 26 (citing 303 F.3d 1015, 1020 (9th Cir. 2002)).) But the Ninth Circuit did not use the word "concrete" or otherwise suggest any such requirement might exist. There, the plaintiff lacked standing to seek declaratory relief because "she ha[d] since graduated" and "ha[d] not alleged that she plan[ned] to return as a student." 303 F.3d at 1020. That stands in stark contrast to the allegations here that M.K.L.—a year-and-a-half

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away from graduation—"would return" if Defendants "guarantee[d] a safe environment." (Compl. ¶ 88(b).)

IV. PLAINTIFFS HAVE STATED EQUAL PROTECTION AND RIGHT TO EDUCATION CLAIMS UNDER THE WASHINGTON CONSTITUTION (COUNTS IV, V, AND VI).

The Washington Constitution guarantees that "*all* children in Washington … have a right to be amply provided with an education." *Sch. Dists.' All. for Adequate Funding of Special Educ.* v. *State*, 149 Wn. App. 241, 263 (2009) (quotation omitted). The EEOL gives statutory expression to this constitutional right by creating a private right of action for "discrimination in Washington public schools on the basis of 'race, creed, religion, color, [and] national origin.'" *Mercer Island Sch. Dist.* v. *Off. of the Superintendent of Pub. Instruction*, 186 Wn. App. 939, 960–61 (2015) (quoting RCW 28A.642.010, 040). Where, as here, a student has been "deni[ed] … equal access to an institution's resources and opportunities," as a result of that institution's inability to provide a safe "environment free from [discriminatory] hostility," the EEOL provides a vehicle to vindicate the harm. *Id.* at 981.

Plaintiffs agree with Defendants that Title VI's "deliberate indifference" standard controls whether liability attaches under the EEOL. (*See* Mot. at 29.) Because Plaintiffs have adequately pleaded that both the District and Jackson were deliberately indifferent to the discriminatory harassment of M.K.L., (*see, supra*, Sections I.B and II.B.1), Plaintiffs have stated their Right to Education claims under the state constitution and EEOL.

V. PLAINTIFFS HAVE STATED A CLAIM UNDER THE WASHINGTON LAW AGAINST DISCRIMINATION (COUNT VII).

To state a claim for religious discrimination under the WLAD, a plaintiff must establish four elements:

> (1) the plaintiff is a member of a protected class, (2) the defendant's establishment is a place of public accommodation, (3) the defendant discriminated against the plaintiff when it did not treat the plaintiff in a manner comparable to the treatment it provides to persons outside that class, and (4) the plaintiff's protected status was a substantial factor that caused the discrimination.

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W.H. v. *Olympia Sch. Dist.*, 195 Wn.2d 779, 786 (2020) (citation omitted). Here, Plaintiffs have alleged a direct, fact-specific comparison between Defendants' purely cosmetic response to the antisemitic harassment directed at M.K.L., and their robust mobilization of resources in response to Islamophobic harassment of another Nathan Hale student. (*See* Compl. ¶ 80.)

Defendants complain that these allegations "do not provide sufficient information to make a meaningful comparison." (Mot. at 30.) But, as federal courts assessing the adequacy of WLAD allegations have observed, it "is not appropriate at this stage of the proceedings" to impose "a high bar" on the level of detail an allegation must contain in order to state a WLAD claim. *Esselstrom* v. *Tempus AI, Inc.*, 2024 WL 4765160, at *2 (W.D. Wash. Nov. 13, 2024). A "short and plain" allegation that one class of individuals was treated differently than another provides "a sufficient statement of a claim under Rule 8." *Id.* Plaintiffs have done that, and more, here by identifying a specific contemporaneous instance where Defendants' actions toward one class of students differed materially from Defendants' actions toward another.

To be sure, Plaintiffs will later need to *prove* that the alleged instance shows disparate treatment, but "between 'plausibly allege' and 'ultimately prove' lies substantial legal real estate," and "Rule 8 does not require Plaintiff[s] to lay claim to it at the outset of [the] case." *Id*. at *3.

VI. PLAINTIFFS HAVE PROVIDED SUFFICIENT PRE-SUIT NOTICE FOR ALL TORT CLAIMS.

State law bars state law tort claims against a municipality unless a "standard tort claim form" is properly submitted beforehand. RCW 4.96.020(4). The statute does not require that specific legal claims be identified; rather, it requires that putative plaintiffs describe "the conduct and the circumstances that brought about the injury or damage." RCW 4.96.020(3)(a)(ii).

Defendants cite *Reyes* v. *City of Renton*, for the proposition that "'strict[] compl[iance] with statutory filing requirements'" is required to satisfy pre-suit notice. (Mot. at 17 (citing 121 Wn. App. 498, 502 (2004)).) But as far back as 15 years ago, courts admonished municipal defendants that "failed to advise the Court that …opinions [similar to *Reyes*] had been

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abrogated by legislation enacted in 2009" amending the statute to replace the strict compliance requirement with the now-operative substantial compliance provision. *Bell* v. *City of Tukwila*, 2011 WL 1045586, at *1 (W.D. Wash. Mar. 21, 2011).

Following this amendment, courts must "liberally construe[]" RCW 4.96.020's technical requirements as "substantial compliance will be deemed satisfactory." RCW 4.96.020(5). The "substantial compliance" safe harbor was introduced because this statute (and some analogs) "were not meant to be 'gotcha' statutes"; yet, their "procedural requirements" had rendered them "barnacles of judicial bureaucracy." *Myles* v. *Clark Cnty.*, 170 Wn. App. 521, 532 (2012) (quoting legislative history). "'Substantial compliance' is met when parties follow a statute in a way that satisfies the 'intent for which the statute was adopted,'" *Wong* v. *Seattle Sch. Dist. No. 1*, 2018 WL 1035799, at *2 (W.D. Wash. Feb. 23, 2018), which is to place the government on notice and afford it "an opportunity to investigate and remedy any potential claims prior to or in place of entrance of those claims into the judicial system." *Hanson* v. *Carmona*, 16 Wn. App. 2d 834, 841 (2021), *aff'd*, 1 Wn.3d 362 (2023).

The Claim Form that Plaintiffs submitted attached seven single-spaced pages describing, in detail, the core conduct alleged in the complaint, the injuries suffered, the names of the District employees involved, the dates of the incidents and pictures of Swastikas and other antisemitic graffiti described. (Dkt. #22 at 52–61.) All three Plaintiffs were identified, and Jackson was referenced at least fifteen times. (*Id.*) Regardless, Defendants contend that Plaintiffs did not provide the District with sufficient pre-suit notice of either (i) the tort claims brought by J.K. and R.L., or (ii) the tort claims by all plaintiffs against Jackson. This is wrong.

Defendants ask the Court to dismiss the tort claims brought by M.K.L.'s parents J.K. and R.L. because "only M.K.L. is identified as the 'Claimant' on the form." (Mot. at 17.) But the District's Tort Claim Form is designed for only a single Claimant, and thus provides space for only one name on the line identifying the Claimant. (*See* Dkt. #22 at 52.) J.K. and R.L. are identified directly underneath M.K.L.'s name as "Claimant's Parent/Guardian." (*See id.*) Regardless of how Plaintiffs are styled on the ill-fitting form, the parents' tort claims arise from

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the same conduct and circumstances described in the tort claim and from the same injuries alleged therein, thereby providing the District with ample notice "to investigate, evaluate, and settle claims," as the statute intends. *Lee* v. *Metro Parks Tacoma*, 183 Wn. App. 961, 968 (2014).

Defendants ask the Court to dismiss Plaintiffs' tort claims against Jackson because the Claim Form "does not name Dr. Jackson as defendant." (Mot. at 17.) But RCW 4.96.020 simply requires Plaintiffs to use the municipality's standard form, and provide, among other things, "a listing of the names of all persons involved." RCW 4.96.020(3)(a)(v). Plaintiffs here satisfied that requirement by detailing Jackson's tortious conduct and mentioning him by name at least 15 separate times in their description of that conduct. *See Leishman* v. *Wash. Att'y Gen.'s Off.*, 2021 WL 1140262, at *4–5 (W.D. Wash. Mar. 25, 2021) (pre-suit notice satisfied where form did "not expressly identify every [d]efendant" and made only "vague references to 'colleagues' and 'senior personnel'"). Defendants overread *Hanson* when they cite it to suggest that the notice form must expressly identify the individual employee as a named defendant to provide adequate notice. (*See* Mot. at 17.) *Hanson* held only that pre-suit notice is required when a plaintiff sues a municipal employee acting within the scope of employment, even if the plaintiff is not also suing the municipality. 1 Wn.3d at 386–87 (2023). In both *Hanson* and Defendants' other case, *Iceberg* v. *Olson*, plaintiffs did not serve any pre-suit notice at all. *Hanson*, 16 Wn. App. 2d at 838; *Iceberg*, 2025 WL 1434932, at *5–6 (W.D. Wash. May 19, 2025).

VII. M.K.L.'S NEGLIGENCE CLAIMS ARE SUFFICIENTLY PLEADED.[10]

Washington school districts have "'an enhanced and solemn duty' of reasonable care to protect their students." *N.L.* v. *Bethel Sch. Dist.*, 186 Wn.2d 422, 430 (2016) (citation omitted). "[U]nlike most parties, school districts have a duty to protect their students from foreseeable harm, even when that harm is caused by third parties." *Hendrickson* v. *Moses Lake Sch. Dist.*, 192 Wn.2d 269, 276 (2018). Here, Plaintiffs have alleged that Defendants breached this duty by repeatedly failing to investigate, intervene, discipline, protect, train, communicate, or take

[10] Plaintiffs do not oppose Defendants' motion to dismiss the negligence claims that J.K. and R.L. brought on their own behalf.

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preventative measures in response to ongoing antisemitic harassment and physical threats against M.K.L. (Compl. ¶¶ 19–45.)

A. M.K.L. Has Sufficiently Alleged a Breach of Duty (Counts VIII and X).

Defendants do not dispute duty, causation or injury for M.K.L.'s negligence claims. They argue only that they did not breach their duty because they purportedly acted consistently with the Harassment, Intimidation, and Bullying ("HIB") policies, which allow for "discretion and flexibility." (Mot. at 31.) But Plaintiffs pleaded a litany of detailed allegations concerning how District employees and Jackson acted inconsistently with these policies, including by (i) "never provid[ing]" plaintiff with required incident reporting forms; (ii) "never inform[ing] [them] that they had the ability to contact the HIB Compliance Officer directly"; (iii) the HIB Compliance Officer "never contact[ing]" Plaintiffs "regarding their reports of antisemitic harassment"; (iv) not taking required "corrective measure involving any of the aggressors"; and (v) not "conven[ing] her IEP team to determine whether the harassment had an impact on her ability to receive an education." (Compl. ¶¶ 78–79.) It is a question of fact as to whether the discretion in the policies is so expansive that this action is consistent with policies. *See N.L.*, 186 Wn.2d at 435 (whether school district breached its duty to protect student "is a factual question"). In any event, even purported "[c]ompliance with guidelines and regulations" does not foreclose a finding of breach. *Est. of Torres by & through Banda* v. *Kennewick Sch. Dist. No. 17*, 2024 WL 1142864, at *6 (E.D. Wash. Mar. 15, 2024).

Defendants likewise offer no independent basis to dismiss Plaintiffs' Negligent Infliction of Emotional Distress claim, relying instead entirely on the same no-breach theory advanced in response to Plaintiffs' negligence claim. (Mot. at 31–32.) For the reasons set forth above, that argument fails as well.

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B. M.K.L. Has Stated a Claim for Intentional Infliction of Emotional Distress (Count IX).[11]

For an IIED claim, "'the relationship between the parties is a significant factor in determining whether liability should be imposed.'" *Robel* v. *Roundup Corp.*, 148 Wn.2d 35, 52 (2002) (citation omitted). Here, the District owed M.K.L. a "unique duty of care" given "the custodial and involuntary nature of the[] relationship," which required it "to protect" M.K.L. "from foreseeable harm ... caused by third parties." *Meyers* v. *Ferndale Sch. Dist.*, 197 Wn.2d 281, 287–88 (2021).

In Defendants' view, Plaintiffs failed to plead the "outrageous and extreme conduct" necessary to state M.K.L.'s IIED claim because Defendants purportedly "responded to [Plaintiffs'] concerns, but not in the manner Plaintiffs wanted." (Mot. at 32.) But Plaintiffs alleged that, in the face of pervasive, escalating, and dangerous antisemitic harassment, Defendants repeatedly failed to take reasonable steps to ensure M.K.L.'s well-being. (*See* Compl. ¶¶ 20–45, 78–80, 90.) So long as "reasonable minds could … differ as to whether," in light of the District's custodial relationship to M.K.L., "the alleged conduct was sufficiently extreme," Plaintiffs have stated an IIED claim. *Soozi S.* v. *Carpenter*, 2008 WL 53118, at *4 (W.D. Wash. Jan. 2, 2008).

C. J.K. And R.L. Have Stated a Claim for Loss of Consortium (Count XI).

Under RCW 4.24.010, "[p]arents may recover for loss of consortium for injury to a child." *Ueland* v. *Reynolds Metals Co.*, 103 Wn.2d 131, 133–34 (1984). J.K. and R.L. allege that they supported M.K.L. financially, emotionally, and psychologically, paid for medical and mental-health treatment, and incurred economic losses including lost wages and out-of-pocket expenses associated with relocating M.K.L. to another school district. (Compl. ¶¶ 214–15.) They further allege that M.K.L.'s distress deprived them of her love, companionship, and participation in ordinary family life. (Compl. ¶¶ 216–17.)

Defendants contend this claim fails because all of Plaintiffs' other claims should be dismissed and thus "no legal wrong has been committed against" M.K.L. (Mot. at 33.) By the

[11] Plaintiffs do not oppose Defendants' motion to dismiss the IIED claims that J.K. and R.L. brought on their own behalf.

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same logic, if the Court sustains any of Plaintiffs' claims, this argument falls away. Defendants' only other argument for dismissal is that J.K. and R.L. are procedurally barred from bringing the claim because they did not identify themselves as claimants on the Claim Form. (Mot. at 33–34.) For the reasons set forth in Section VI, this argument fails.

CONCLUSION

For the foregoing reasons, the Court should deny Defendants' Motion.

We certify that this memorandum contains 8,330 words in compliance with the Local Civil Rules.

Dated: February 20, 2026.

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CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington and the United States of America, that the following is true and correct:

That on February 20, 2026, I arranged for service of the foregoing via the Court's ECF system on the following person(s):

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